

BAY COUNTY ELECTION COMMISSION  
SEPTEMBER 3, 1991  
PORTSMOUTH TOWNSHIP CLARITY

THE BAY COUNTY ELECTION COMMISSION MET FOR A REGULAR BOARD SESSION ON MONDAY, SEPTEMBER 4, 1991, IN THE COMMISSIONER'S GROUND FLOOR CONFERENCE ROOM OF THE BAY COUNTY BUILDING FOR THE PURPOSE OF DETERMINING CLARITY OF A RECALL PETITION FILED RECALLING THE PORTSMOUTH TOWNSHIP SUPERVISOR. THIS PETITION WAS SUBMITTED AT THE REQUEST OF MR. EDWARD BRISTOW. THE MEETING WAS CALLED TO ORDER BY CHAIRMAN DONER AT 9:10 A.M. THE FOLLOWING MEMBERS AND GUESTS WERE IN ATTENDANCE.

ROLL CALL:        PAUL N. DONER, PROBATE JUDGE  
                  BARBARA ALBERTSON, COUNTY CLERK  
                  BARBARA DUFRESNE, REG. OF DEEDS  
                  PATRICK DUGGAN, CORP. COUNSEL  
                  EDWARD BRISTOW, PETITIONER  
                  JOHN MCQUILLAN, TWP. ATTORNEY  
                  ROBERT PAWLAK, SUPERVISOR  
                  CYNTHIA A. LUCZAK, SECRETARY

THE RECALL PETITION SUBMITTED FOR REVIEW OF CLARITY HAD BEEN FILED BY MR. EDWARD BRISTOW ON AUGUST 21, 1991.

AS ELECTION COMMISSION APPOINTEE GEORGE MULLISON WAS UNABLE TO ATTEND THIS SESSION, THE REGISTER OF DEEDS, BARBARA DUFRESNE, FILLED IN BY VIRTUE OF HER OFFICE.

CHAIRMAN DONER ACCEPTED PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT.

PORTSMOUTH TOWNSHIP SUPERVISOR, ROBERT PAWLAK, STATED HE WOULD ANSWER ANY QUESTIONS REGARDING HIS DUTIES ANY AFTERNOON OR WEEKEND.

PETITIONER EDWARD BRISTOW APOLOGIZED FOR NOT BEING PRESENT AT THE CLARITY HEARING OF AUGUST 14, 1991. IT WAS NECESSARY FOR MR. BRISTOW TO SEE HIS FAMILY DOCTOR AT THE SAME DAY AND TIME.

THE ELECTION COMMISSION RETURNED TO THE REGULAR ORDER OF AGENDA BUSINESS FOLLOWING THE COMMENTS OF THOSE WISHING TO EXPRESS SUCH.

ATTORNEY JOHN MCQUILLAN MADE REFERENCE TO THE CLARITY HEARING OF AUGUST 14, 1991 IN WHICH THE ELECTION COMMISSION DETERMINED THE PETITIONS CONTAINING FOURTEEN DUTIES UNPERFORMED BY THE SUPERVISOR, WERE UNCLEAR AND HAD BEEN BASED ON MCLA 42.10, THE DUTIES OF A A TOWNSHIP SUPERINTENDENT. A SUPERINTENDENT TO BE APPOINTED AT THE DISCRETION OF THE TOWNSHIP BOARD.

MR. MCQUILLAN QUOTED A HANDBOOK PREPARED BY JOHN BAUCKHAM FOR THE MICHIGAN TOWNSHIPS ASSOCIATION. THIS REFERRED TO DUTIES OF THE TOWNSHIP SUPERVISOR "AS A MEMBER OF THE TOWNSHIP BOARD, THE SUPERVISOR SHOULD VOTE ON ALL ISSUES UPON WHICH A VOTE IS REQUIRED. UNLESS, THERE IS A CONFLICT OF INTEREST OR SOME PROPER LEGAL REASON FOR ABSTAINING UNDER THE OATH OF OFFICE, AS WITH ALL OTHER ELECTED OFFICIALS. THE SUPERVISOR'S REQUIRED TO SUPPORT THE CONSTITUTION OF THE UNITED STATES AND STATE OF MICHIGAN AND FAITHFULLY DISCHARGE THE DUTIES OF SUPERVISOR TO THE BEST OF HIS/HER ABILITY". THE RECALL PETITION SUBMITTED AT THIS CLARITY ALLEGED THE SUPERVISOR DID NOT VOTE, YET HE DID VOTE AS SUPERVISOR. SHOULD HE BE THE SUPERINTENDENT, THEN NOT AUTHORIZED TO FORMALLY VOTE THUS NO BASIS FOR THE PETITION. WITH THE SUPERVISOR PERFORMING HIS DUTIES, CANNOT BE RECALLED FOR DOING SO AS IN THE CASE OF THE TOWNSHIP CLERK.

MR. BRISTOW RESPONDED HE WAS NOT FILING ON BEHALF OF THE SEWER PROJECT BUT FOR THE ACTIONS OF THE SUPERVISOR NAMED IN THE PETITION ONLY.

CHAIRMAN DONER VOICED HIS COMMENTS AT THIS TIME. AS FORMER PETITIONS HAD BEEN VAGUE & LENGTHY, NOT MEETING STATUTORY REQUIREMENTS, HE FELT WORDING OF THIS PETITION WAS CLEAR EVEN THOUGH IT MAY NOT NECESSARILY BE TRUE. IT WAS JUDGE DONER'S OPINION THE WORDING MET THE STATUTORY REQUIREMENT FOR CLARITY AS CONTAINED IN MCLA 168.952. FURTHER, THE STATEMENT INDICATED WHAT HAD BEEN DONE WRONG "HE VOTES ON THINGS PERTAINING TO PORTSMOUTH TOWNSHIP WHEN HE SHOULD NOT BE VOTING".

CLERK ALBERTSON QUESTIONED WHETHER OR NOT MR. BRISTOW UNDERSTOOD THE DIFFERENCE IN DUTIES BETWEEN THE SUPERVISOR AND SUPERINTENDENT. UPON REVIEW OF THE CHARTER TOWNSHIP ACT, SECTION 42.9, IT WAS DECIDED THE INFORMATION PROVIDED BY MR. BRISTOW APPLIED ONLY IN THE CASE OF AN APPOINTED SUPERINTENDENT AND NOT SUPERVISOR.

BARBARA DUFRESNE FELT THE PETITION LANGUAGE WAS VAGUE AND UNCLEAR BY NOT SPECIFYING THE ISSUE OR INSTANCE A VOTE WAS OR WAS NOT CAST BY THE SUPERVISOR. INFORMATION SHE RECEIVED FROM THE MICHIGAN TOWNSHIP ASSOCIATION INDICATED THE SUPERVISOR HAD THE RIGHT TO VOTE AS ANY OTHER BOARD MEMBER DID. IT WAS ALSO HER OPINION, MR. BRISTOW HAD CONFUSED THE RESPONSIBILITIES OF SUPERVISOR/SUPERINTENDENT.

MOTION 1: CLERK ALBERTSON MOVED TO DENY THE RECALL PETITION WORDING AS SUBMITTED SINCE THE

MOTION #1: DIFFERENCES IN DUTIES BETWEEN THE SUPERVISOR AND SUPERINTENDENT WOULD BE MISLEADING TO THE VOTER IF PLACED ON A BALLOT. BARBARA DUFRESNE SUPPORTED THE MOTION TO DENY THE PETITION AND IT WAS CARRIED BY ROLL CALL VOTE OF 2 YEAS, 1 NAY-DONER.

JUDGE DONER HAD PRESENTED A LETTER RECOMMENDING NEW PROCEDURES FOR THE ELECTION COMMISSION TO FOLLOW UPON THE FILING OF A RECALL PETITION. BARBARA DUFRESNE REVIEWED THE REQUEST AS SHE HAD NOT SEEN IT PREVIOUSLY. THIS LETTER OUTLINED A PROCEDURE FOR REJECTION OF INADEQUATE PETITIONS WHEN SUBMITTED TO THE CLERK. IT WAS THE OPINION OF PAT DUGGAN, THE COMMISSION COULD DISCUSS ANY PROCEDURAL ISSUES NECESSARY FOR THEIR OPERATIONS AT A REGULAR MEETING. ALSO, THAT THE COUNTY CLERK WAS AUTHORIZED TO REVIEW PETITIONS FOR ACCEPTANCE/REJECTION UNDER MCLA 168.544 (C). THE CLERK COULD PROVIDE COPIES OF THE STATUTE FOR A PETITIONER BUT NOT PROVIDE ANY LEGAL ADVICE. DISCUSSED WAS THE CONDENSATION ISSUE CONTAINED IN MCLA 168.966. AS THE CONDENSATION OF BALLOT WORDING WOULD OCCUR JUST PRIOR TO PLACEMENT OF AN ISSUE ON THE BALLOT, IT WAS DECIDED BY THE MEMBERS, THE CLERK WAS NOT AUTHORIZED TO DISQUALIFY A PETITION OVER THE 200 WORDS, UPON ITS FILING.

PAT DUGGAN ADDED A RECALL CAN BE BASED ON ANYTHING. THAT A RECALL PROCESS HAD NOT BEEN A REFINED PROCESS. ANY ALLEGED CONDUCT DURING OFFICE, BEING CLEAR, EVEN IF IT WAS A LIE, ILLEGAL OR UNCONVICTED CONDUCT - CAN BE THE BASIS FOR RECALL.

BARBARA DUFRESNE QUESTIONED IF THE STATE ELECTIONS BUREAU WOULD BE WILLING TO PROVIDE ANY LEGAL OPINION IN REGARD TO RECALL. BARB ALBERTSON STATED THEY WOULD NOT RESPOND UPON INQUIRY.

JUDGE DONER FELT THE COURTS SHOULD BETTER SPECIFY STATE STATUTE TO PREVENT ANY RECALL OF AN INSIGNIFICANT MATTER.

CORPORATION COUNSEL, PAT DUGGAN, INFORMED THE COMMISSION A MOTION FOR A MORE DEFINATE STATEMENT HAD BEEN FILED IN THE CASE OF DONALD KRZEWINSKI VS. BAY COUNTY ELECTION COMMISSION, FILE 91-3379-AA.

MOTION #2: BARBARA ALBERTSON MOVED TO ADJOURN. BARBARA DUFRESNE SUPPORTED & MEETING WAS ADJOURNED AT 9:55 A.M. BY 3 YEAS, 0 NAYS.

RESPECTFULLY SUBMITTED  
BARBARA ALBERTSON  
BAY COUNTY CLERK